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SUBJECT: Government, CNDP unable to agree about Technical Commission

¶1. (SBU) Summary: No progress was made by government, CNDP and international facilitators in February 13-18 technical discussions on implementing the Goma process. The government has shown some flexibility in small matters but key differences remain, particularly regarding the structure of the Technical Commission. The two parties are at an impasse. Higher-level demarches to government and CNDP may be needed to move the process forward. End summary.

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February 16 - CNDP Delivers its Demands  
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¶2. (SBU) MONUC hosted government and CNDP delegations February 16 along with international facilitators from EUSEC and the U.S. Naval chief of staff Vice Admiral Didier Etumba, 8th Military Region Commander General Vainqueur Mayala and Deputy Commander Colonel Delphin Kahimbi represented the government; the CNDP's team consisted of three political and three military representatives.

¶3. (SBU) CNDP handed out a four-page document entitled "CNDP Proposals with respect to the Modification of Presidential DECREE to Implement the Act of Engagement of February 23, 2008 (sic)," which, supplemented by limited discussion, included the following key points:

-- The "Amani" Program described in the presidential decree was a national one and thus inappropriate for the Kivus;

-- The establishment of a Steering Committee at the top of this structure was unacceptable;

-- Seats on the Technical Commission should be proportional to military strength on the ground;

-- Although not explicitly stated, the Commission should be moved to North Kivu and its sub-commissions largely collapsed into it. (Note: In contrast to the government proposal for a two-person commission, the CNDP proposal envisions into a 20-person or even larger commission with sub-commissions -- both military and humanitarian -- in the provinces. End note);

-- The CNDP should have 40 per cent of the Commission's seats with the remaining distributed among the government and its "allies;"

-- Decisions should require approval of three-quarters of the members, rather than consensus; and

-- The Commission should be autonomous and given resources to accomplish its mandate.

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A Predictable GDRC Reaction  
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14. (SBU) Etumba complained that the CNDP proposals were tantamount to challenging or revisiting everything that had been done by the government since January 23. Unlike CNDP, the government had made concessions. It was "open to all substantive concrete discussions" with CNDP that remained within legal parameters (a clear reference to the legitimacy of the existing decree), but there must be good faith on both sides for this to work. He then passed the ball to international facilitation "to do its job."

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International Facilitators' Disappointment and Frustration  
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15. (SBU) SRSG Chief of Staff John Almstrom stressed international facilitators were there "to facilitate the process going forward, not going backward," and that we would not be passive. He pointed out that all armed signatories must be given seats on the Commission according to the Kivus Conference Acte d'Engagement. He suggested that CNDP's concerns be dealt with in (a) the proposed new decree and (b) in the Commission itself, and reiterated that we were waiting for proposals from CNDP that respect the internationally-accepted authority of the state. He promised to investigate ceasefire violations raised by the CNDP (Note: There was a ceasefire violation meeting later that day. End note.).

16. (SBU) The U.S. expressed disappointed and said we had come expecting to receive CNDP's proposals for a second decree, and this was a step backward. We would continue to take an active role and would inform our capitals about recent developments and seek

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guidance on options for going forward. The EUSEC representative proposed that facilitators meet separately with both sides to identify potential common ground.

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February 17 - CNDP: "Free" the Technical Commission  
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17. (SBU) It was clear following the separate meetings the following day that the two parties were at an impasse. While CNDP did not reject the Amani project per se, they said they would not be a party to a decree they believe exceeds the scope of the accord they signed with the government following the Kivus Conference. CNDP insisted that the Technical Commission be a stand-alone organization, not subordinate to a broader framework in which CNDP is not represented.

18. (SBU) CNDP argued that any decision-making structure must include representatives from all signatories, rather than the two co-presidents envisaged by the government, and there must be separate military and humanitarian commissions for both North and South Kivu, i.e., four sub-commissions. Almstrom said the government might be able to offer them more seats on the Commission. When asked if there were any area where CNDP could be similarly flexible, they responded they would have to check back with Nkunda.

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February 18 - GDRC: CNDP Inflexibility Could Scuttle Peace  
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19. (SBU) On February 18, international facilitators briefed the government delegation on the results of the February 17 CNDP meeting. They were clearly disappointed. Etumba pointed out that the government had made "significant" concessions by offering additional commission seats to CNDP, a permanent invited guest position on the Steering Committee and by clarifying that international facilitators would co-preside the structure at all levels. He said facetiously that if the CNDP wanted to be in charge of "Affairs of the Moon" on the Technical Commission the government would create a sub-commission and give them that post. He stated

that the demand for a three-quarters vote was unacceptable, a sort of CNDP ploy to block meaningful decisions; commissions of this kind always operate on a consensual basis.

¶10. (SBU) Growing heated, Etumba launched into diatribe against CNDP, accusing them of a "talk and fight" strategy, and added, "we know their game," but the international facilitators "must not be deceived." The government delegation reiterated their complaint that CNDP had not proposed names of specific delegates for the commission, nor had they given language for the second decree, "making it hard to trust their commitment."

¶11. (SBU) International facilitators tried to explain the nature of the CNDP's objection to the proposed Commission structure and to identify negotiating ground, but were unable to get through to Etumba. His position: we will not negotiate the structure which (he insisted) had already been accepted by all parties (Comment: This is not accurate, but is the GDRC starting point. End comment.), nor will we accept the CNDP proposal of a 60/40 division of Commission seats with decisions made by a three-quarters majority.

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Comment  
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¶12. (SBU) We will shortly celebrate the one-month anniversary of the end of the Kivus Conference. Despite considerable engagement by international facilitators present in Goma, government and CNDP are at an impasse. Higher level demarches to both sides may be needed to resolve it. For the time being, international facilitators are considering whether to ask the UN for a letter to the government illustrating how the proposed CNDP revisions to the Commission structure would not conflict with either the Acte or the Amani decree, and suggesting a follow-up decree that would clarify the Commission structure while addressing CNDP concerns. End comment.

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